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ABSTRACT

The Department of Education's (ED) Office for Civil Rights (OCR) enforces several statutes that protect the rights of beneficiaries in programs or activities receiving financial assistance from ED. An outline of protocols regarding these requirements is provided in this brochure. It describes the notice of nondiscrimination requirements, such as the stipulations that recipients of federal aid must notify students, parents, and others that they do not discriminate on the basis of race, color, national origin, sex, disability, and age, and that Title IX regulations require schools to implement specific steps to inform students and others of the protection against sex discrimination. The brochure outlines methods of notification, which may include posting information notices or distributing memoranda. Neither the Title VI regulation, the Age Discrimination Act regulation, nor the Title II regulation specifies the methods to be used by recipients in publishing notices of nondiscrimination. Combined requirements protocols arise from OCR's recognition that variations among the regulations governing notice requirement mean that schools and colleges may wish to use one statement to comply with all requirements. Such notices should contain a statement of nondiscrimination that specifies the basis for nondiscrimination and should identify those responsible for coordinating compliance efforts. A sample notice of nondiscrimination is provided. (RJM)

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Notice of NONDISCRIMINATION

ED 427 460

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U.S. Department of Education
Office for Civil Rights
Washington, D.C.

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Introduction

The Department of Education's (ED) Office for Civil Rights (OCR) enforces several statutes that protect the rights of beneficiaries in programs or activities that receive financial assistance from ED. These laws prohibit discrimination on the basis of race, color, and national origin (Title VI of the Civil Rights Act of 1964), sex (Title IX of the Education Amendments of 1972), disability (Section 504 of the Rehabilitation Act of 1973), and age (Age Discrimination Act of 1975). OCR also has responsibilities under Title II of the Americans with Disabilities Act, which prohibits state and local governments from discriminating on the grounds of disability.

This fact sheet explains the requirements for schools, colleges, state and local governments that receive federal funds to issue notices of nondiscrimination, clarifies the information that they should include in their nondiscrimination notices, and provides a sample notice of nondiscrimination. This fact sheet is designed to assist education institutions in establishing a notice of nondiscrimination that meets the requirements of the applicable regulations.

Notice of Nondiscrimination Requirements

The regulations implementing Title VI, Title IX, Section 504, and the Age Discrimination Act contain requirements for recipients to issue notices of nondiscrimination. (See 34 C.F.R. Sections 100.6(d), 106.9, 104.8, and 110.25, respectively.) The Title II regulation also contains a notice requirement that applies to all units of government, whether or not they receive federal aid. (See 28 C.F.R. Section 35.106.)

These regulations require that recipients notify students, parents and others that they do not discriminate on the basis of race, color, national origin, sex, disability, and age. However, these regulations contain minor differences relating to the required content of recipient notices of nondiscrimination and the methods used to publish them.

The Title VI regulation requires schools and colleges to notify students and others of the regulatory provisions in a manner that a responsible ED official would find necessary to tell students of their protections against discrimination under the statute and regulation.

The Title IX and the Section 504 regulations both contain more detailed requirements that specify the information that must be included in a notice of nondiscrimination. These regulations also require recipients to designate at least one employee to coordinate efforts to comply with and carry out responsibilities.

The Title IX regulation requires schools and colleges to implement specific and continuing steps to inform students and others of the protections against discrimination on the basis of sex. The notification must state that the requirement of nondiscrimination in educational programs and activities extends to employment and admission. It also must say that questions about Title IX may be referred to the employee designated to coordinate Title IX compliance or to the Assistant Secretary for Civil Rights. Schools are required to include the name, address, and telephone number of the designated coordinator in their notifications.

The Section 504 regulation requires that a school employing 15 or more persons must implement appropriate, continuing steps to notify students and others that the school does not discriminate on the basis of disability in violation of the statute and regulation. The notification must state, where appropriate, that the education institution does not discriminate in admission, treatment, or access to its programs or activities. The notification also must state that the institution does not discriminate in employment in its programs or activities. The employee designated to coordinate compliance with Section 504 regulations must be identified in the notification.

The Title II regulation requires that a public entity generally make information regarding the provisions of Title II available to applicants, participants and other interested persons.

The regulation implementing the Age Discrimination Act requires a school or college to notify its students and applicants of information regarding the provisions of the Act and the regulation's applicability to specific programs. The notice must identify the compliance coordinator by name or title, address, and telephone number.

Methods of Notification

In accordance with the Title IX and Section 504 regulations, notification may include posting information notices, publishing in local newspapers, and publishing in newspapers and magazines operated by the school or its students, publishing in alumnae or alumni newspapers or magazines, or distributing memoranda or other written communications to students and employees. In addition, recipients are required to include a statement of nondiscriminatory policy in any bulletins, announcements, publications, catalogs, application forms, or other recruitment materials that are made available to participants, students, applicants, or employees. As noted in the pertinent Section 504 regulation, schools may meet this requirement either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

Neither the Title VI regulation, the Age Discrimination Act regulation, nor the Title II regulation specifies the methods to be used by recipients in publishing notices of nondiscrimination.

Combined Requirements

OCR recognizes the variations among the regulations governing notice requirements and understands that schools and colleges may wish to use one statement to comply with all requirements of the regulations

implementing Title VI, Title IX, Section 504, and the Age Discrimination Act. Public institutions also may wish to include Title II of the ADA in their statement. OCR encourages one combined notice for the regulations.

A combined nondiscrimination notice should contain two basic elements: (1) a statement of nondiscrimination that specifies the basis for nondiscrimination; and (2) identification by name or title, address, and telephone number of the employee or employees responsible for coordinating the compliance efforts.

The regulations do not require that a recipient identify the pertinent regulations by title. Please see the sample notice beginning on page 5.

The Title IX regulation requires a recipient to provide the name of the person responsible for its compliance effort in addition to the address and telephone number where that person may be contacted. However, because OCR recognizes that the inclusion of a person's name in a nondiscrimination notice may result in an overly burdensome requirement to republish the notice if a person leaves the coordinator position, it is acceptable for a recipient to identify its coordinator only through a position title.

The Section 504 regulation does not require a recipient to include the address or telephone number of the responsible employee assigned to coordinate its compliance efforts. However, OCR considers that identifying the responsible employee without information on how to contact that person does not constitute an effective notice. An acceptable nondiscrimination notice should provide information on how to contact the responsible employee.

Compliance with the notification requirements of Section 504 will also generally satisfy the notification requirements of Title II for state and local governments.

Although the Section 504 and Title IX regulations state that schools and colleges, where appropriate, shall specify nondiscrimination in the areas of admission and employment, a general statement indicating nondiscrimination in all programs is acceptable.

The Title IX regulation indicates that inquiries concerning the application of the Title IX regulations may be referred to the coordinator or to the Assistant Secretary for Civil Rights. An acceptable notice may include the names and titles of either one or both individuals. If a recipient designates two different people to coordinate compliance with Section 504 and Title IX, both names or titles should be included in the notice.

Sample Notice of Nondiscrimination

The following sample notice of nondiscrimination meets the minimum requirements of the regulations enforced by OCR:

The (name of school or college, or local or state government) does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the nondiscrimination policies:

Name and/or Title
Address
Telephone No.

Name and/or Title*
Address
Telephone No.

For further information on notice of nondiscrimination, see list of OCR enforcement offices for the address and phone number of the office that serves your area, or call 1-(800)-421-3481.

* For use when more than one official has been designated to coordinate civil rights compliance.